

JAMES S. TERRELL, ESQ. (SBN: 170409)
Law Office of James S. Terrell
15411 Anacapa Road
Victorville, California 92392
Telephone No. (760) 951-5850
Fax No. (760) 952-1085
E-mail: jim@talktoterrell.com

SHARON J. BRUNNER, ESQ. (SBN: 229931)
Law Office of Sharon J. Brunner
14393 Park Avenue, Suite 100
Victorville, CA 92392
Telephone No. (760) 243-9997
Fax No. (760) 843-8155
E-mail: sharonjbrunner@yahoo.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DAWN SOARES, TIFFANY) **Case No.: 2:17-cv-00924-RGK-AS**
SOARES, ALISSA VARNEDOE,)
JAYDA MACCASKIE AS MOTHER)
AND NATURAL GUARDIAN FOR) **FIRST AMENDED COMPLAINT**
MINOR CHILDREN "J.V." AND) **FOR DAMAGES**
"S.V.," CHILDREN OF DECEDENT,)
AND SUCCESSORS OF INTEREST,) **[DEMAND FOR JURY TRIAL]**
HEIRS.)

Plaintiffs,) *Honorable R. Gary Klausner*
vs.) *Courtroom 850*

COUNTY OF LOS ANGELES,)
SHERIFF JIM MCDONNELL,)
CAPTAIN JACK EWELL,)
SERGEANT SEAN BURKE, DEPUTY)
ANTHONY GEISBAUER, DEPUTY)

JUAN RODRIQUEZ, DEPUTY)
 EDSON SALAZAR, DEPUTY)
 DONALD MCNAMARA, DEPUTY)
 STEVEN PRATT, DEPUTY IAN)
 STADE, DEPUTY DANIEL WELLE,)
 DEPUTY WHEELER, COMMANDER)
 PATRICK MAXWELL, and DOES 1-)
 10)
)
 Defendants.)

JURISDICTION

1. This action arises under Title 42 of the United States Code, §1983. Jurisdiction is conferred upon this Court by Title 28 of the United States Code, §§1331 and 1343. The unlawful acts and practices alleged herein occurred in the County of LOS ANGELES, California, which is within this judicial district.

PARTIES

2. Plaintiff **DAWN SOARES** is and was at all times mentioned herein the mother of Decedent, Leroy Genaro Varnedoe. Plaintiff DAWN SOARES is a citizen of the United States residing in the City of Los Angeles in California. All Plaintiffs and Decedent are readily recognizable as African-American.

3. Plaintiff **TIFFANY SOARES** is and was at all times mentioned herein the sister of Decedent, Leroy Genaro Varnedoe. Plaintiff TIFFANY SOARES is a citizen of the United States residing in the City of Los Angeles in California.

4. Plaintiff **ALISSA VARNEDOE** is and was at all times mentioned herein the adult daughter of Decedent, Leroy Genaro Varnedoe.

1 Plaintiff Alissa Varnedoe is a citizen of the United States residing in the City of
2 Los Angeles in California. Plaintiff Alissa Varnedoe is Decedent, Leroy Genaro
3 Varnedoe's successor-in-interest.

4 5. Minor Plaintiff "**J.V.**" is the minor daughter of Decedent,
5 Leroy Genaro Varnedoe. Minor Plaintiff "**J.V.**" is a citizen of the United States,
6 residing in the City of Santa Clarita in California. She is being represented in this
7 action by her mother and Guardian Ad Litem, JAYDA MACCASKIE. Minor
8 Plaintiff "**J.V.**" is Decedent, Leroy Genaro Varnedoe's successor-in-interest.

9 6. Minor Plaintiff "**S.V.**" is the minor daughter of Decedent,
10 Leroy Genaro Varnedoe. Minor Plaintiff "**S.V.**" is a citizen of the United States,
11 residing in the City of Santa Clarita in California. She is being represented in this
12 action by his mother and Guardian Ad Litem, JAYDA MACCASKIE. Minor
13 Plaintiff "**S.V.**" is Decedent, Leroy Gerano Varnedoe's successor-in-interest.

14 7. Defendant **COUNTY OF LOS ANGELES** ("COUNTY") is a
15 municipal corporation, duly organized and existing under the laws of the State of
16 California. Under its authority, the COUNTY operates the LOS ANGELES
17 County Sheriff's Department.

18 8. At all times mentioned herein, Defendant **JIM MCDONNELL**
19 ("**MCDONNELL**") was employed by Defendant COUNTY as Sheriff for the
20 COUNTY. He is being sued in his individual capacity and in his official capacity
21 as Sheriff for the COUNTY.

22 9. Defendant **JACK EWELL** ("**EWELL**"), is and was at all times
23 herein mentioned a Captain employed by Defendant COUNTY OF LOS
24 ANGELES. He is being sued individually and in his official capacity as a Captain
25 for the COUNTY.

26 10. Defendant **SEAN BURKE** ("**BURKE**") is and was at all times
27 herein mentioned a Sergeant employed by Defendant COUNTY OF LOS
28 ANGELES. He is being sued in his individual capacity and in his official capacity

1 as a Sergeant for the COUNTY.

2 11. Defendant **ANTHONY GEISBAUER** ("GEISBAUER") is and
3 was at all times mentioned herein a Deputy employed by the COUNTY OF LOS
4 ANGELES. He is being sued in his individual capacity and in his official capacity
5 as a Deputy for the COUNTY.

6 12. Defendant **JUAN RODRIQUEZ** ("RODRIQUEZ") is and was
7 at all times mentioned herein a Deputy employed by the COUNTY OF LOS
8 ANGELES. He is being sued in his individual capacity and in his official capacity
9 as a Deputy for the COUNTY.

10 13. Defendant **EDSON SALAZAR** ("SALAZAR") is and was at
11 all times mentioned herein a Deputy employed by the COUNTY OF LOS
12 ANGELES. He is being sued in his individual capacity and in his official capacity
13 as a Deputy for the COUNTY.

14 14. Defendant **MARK MCNAMARA** ("MCNAMARA") is and
15 was at all times mentioned herein a Deputy employed by the COUNTY OF LOS
16 ANGELES. He is being sued in his individual capacity and in his official capacity
17 as a Deputy for the COUNTY.

18 15. Defendant **STEVEN PRATT** ("PRATT") is and was at all
19 times mentioned herein a Deputy employed by the COUNTY OF LOS ANGELES.
20 He is being sued in his individual capacity and in his official capacity as a Deputy
21 for the COUNTY.

22 16. Defendant **IAN STADE** ("STADE") is and was at all times
23 mentioned herein a Deputy employed by the COUNTY OF LOS ANGELES. He is
24 being sued in his individual capacity and in his official capacity as a Deputy for the
25 COUNTY.

26 17. Defendant **DANIEL WELLE** ("WELLE") is and was at all
27 times mentioned herein a Deputy employed by the COUNTY OF LOS ANGELES.
28 He is being sued in his individual capacity and in his official capacity as a Deputy

1 for the COUNTY.

2 18. Defendant **DEPUTY WHEELER** ("WHEELER") is and was
3 at all times mentioned herein a Deputy employed by the COUNTY OF LOS
4 ANGELES. He is being sued in his individual capacity and in his official capacity
5 as a Deputy for the COUNTY.

6 19. Defendant **COMMANDER PATRICK MAXWELL**
7 ("MAXWELL") is and was at all times mentioned herein a Commander employed
8 by the COUNTY OF LOS ANGELES. He is being sued in his individual capacity
9 and in his official capacity as a Commander for the COUNTY.

10 20. Plaintiffs are ignorant of the true names and capacities of
11 Defendants DOES 1 through 10, inclusive, and therefore sues these defendants by
12 such fictitious names. Plaintiffs are informed and believe and thereon alleges that
13 each Defendant so named is responsible in some manner for the injuries and
14 damages sustained by Plaintiffs as set forth herein. Plaintiffs will amend their
15 complaint to state the names and capacities of DOES 1 - 10, inclusive, when they
16 have been ascertained.

17 21. In engaging in the conduct described herein, Defendants acted
18 under the color of law and in the course and scope of their employment with the
19 COUNTY. In engaging in the conduct described herein, Defendants exceeded the
20 authority vested in them as peace officers under the United States and California
21 Constitutions and as peace officers employed by Defendant COUNTY.

22 **STATEMENT OF FACTS**

23 22. On the morning of February 6, 2015, Decedent VARNEDOE
24 was killed at a house located in Lancaster, California by Defendant LOS
25 ANGELES COUNTY Sheriff's Office personnel. VARNEDOE's death was
26 horrific and wholly unnecessary. VARNEDOE's death is directly attributed to the
27 actions of the Defendants whereby excessive and unreasonable force "gassing
28

1 method” was deployed. Defendants used massive and excessive amounts of cold
2 and hot containers of gas in an attempt to flush or smoke VARNEDOE out of the
3 house. A “burn safe” tear gas canister is an incendiary device that functions
4 essentially as a bomb, when the area is saturated with gas and makes contact with
5 materials such as furniture. The device was thrown inside the residence and
6 allowed to set fire to a couch and upholstery inside the residence. The fire
7 ultimately engulfed the home located at 16335 Gadsden Ave. in Lancaster,
8 California. Decedent VARNEDOE died from smoke-inhalation, burns to his body
9 and ingestion of chemicals.

10 23. In fact, it was Defendants’ stated intention to use the gas to
11 "smoke" Decedent out of the house. Although Defendants contend that they
12 possessed a warrant authorizing service of a search warrant on the Decedent, the
13 extreme amount of gas in combination with the use of a dangerous hot gas
14 canisters known to start fires when in contact with carpet and furniture, was a
15 departure from accepted law enforcement use of these chemicals. Defendants had
16 or should have had knowledge of the dangerous consequences of their actions.

17 24. On February 5, 2015 at 9:00 a.m. DEFENDANT DEPUTY
18 WELLE initiated surveillance on the property located at 45335 Gadsden Ave,
19 Lancaster, California. Defendant WELLE had information from various sources
20 that the Decedent VARNEDOE had active warrants and possessed firearms.
21 Defendant WELLE passed on information from a confidential source and hearsay
22 from a bail bond agent to SWAT and Special Enforcement Bureau (“SEB”). It is
23 believed that this unreliable information far exaggerated and distorted the situation
24 and created a false narrative as to the situation and status of the Decedent.

25 25. At 5:45 pm various LASD deputies responded and surrounded
26 the residence and aided by aero support used loud speakers to order the occupants
27 to exit the house. Three women and a child exited. All three informed the police
28 that the Decedent was sleeping inside the residence and further informed LASD

1 that VARNEDOE was passed out and described no danger or agitated state,
2 contrary to the information provided by Defendant DEPUTY WELLE.

3 26. At all times throughout this entire event the Decedent was
4 never seen nor observed by any law enforcement personnel. There is no evidence
5 to suggest that the Decedent ever made threats to anyone including law
6 enforcement. There is also no evidence to suggest that the Decedent engaged in
7 any aggressive actions to anyone, including law enforcement. Moreover, there is
8 no evidence to suggest that the Decedent barricaded himself inside the house. The
9 Decedent was incapacitated and nonresponsive as described by the female
10 witnesses. The only contact LASD had with the Decedent occurred after the
11 house was burned down. Only then did LASD make contact with a deceased
12 VARNEDOE when his naked, burnt body was located. VARNEDOE was
13 unarmed.

14 27. In connection with serving the search warrant on 46335
15 Gadsden Ave., Defendant CAPTAIN EWELL, a high-ranking Captain in the LOS
16 ANGELES County Sheriff's Department, determined that the Sheriff's Department
17 SWAT/SEB Team should be deployed to effect entry into the residence. Defendant
18 Commander PATRICK MAXWELL formulated, approved, ratified, and advised
19 Deputies of the plan and SHERIFF MCDONNELL was notified, and approved and
20 ratified the plan to throw in excess of fourteen (14) canisters of gas and a gas bomb
21 into the house where Decedent was residing to "smoke" Decedent out from inside
22 the residence. Knowing that throwing in excess of fourteen (14) canisters of gas
23 was likely to suffocate Decedent and spark a fire, PATRICK MAXWELL devised,
24 approved, and ratified the plan to throw the many gas canisters inside the home as
25 a way to intentionally harm Decedent. EWELL condoned and ratified the
26 excessive use of gas and unsafe incendiary devices, which he knew or should have
27 known would cause a fatal fire. Captain EWELL was also aware of Commander
28 MAXWELL's penchant and history of burning barricaded suspects to death by the

1 use of chemical agents and pyrotechnics but went along with the deadly plan
2 anyway. Sheriff MCDONNELL knew or should have known Commander
3 MAXWELL had a penchant and history of burning barricaded suspects as well.

4 28. The LASD SWAT team or SEB surrounded the house where
5 Decedent was staying. LASD sent a robot in the house. The robot did not detect the
6 presence of the Decedent in the house. Despite the lack of evidence that
7 VARNEDOE was in the house, the Defendants continued to carry out their highly
8 dangerous plans. Based on the statements of neighbors present at the scene,
9 Defendants reasonably believed Decedent was present inside the residence.
10 Although Defendants were informed that Decedent might be mentally impaired or
11 intoxicated, they received no indication that Decedent was a threat to himself or
12 anyone else. Decedent did not or was unable to communicate with Defendants. The
13 Defendants never provided a phone or mechanism by which the Decedent could
14 have communicated with law enforcement.

15 29. The on-scene leaders of this debacle, including PATRICK
16 MAXWELL and other Defendants, decided to order that a hot tear gas
17 (euphemistically, somewhat misleadingly, called a "'burn safe" device") be thrown
18 inside and ignited in the front living room where Decedent was residing. The
19 interior of the living room was visible to Defendants through a large window that
20 faced out onto the street. Furniture, including two couches and other flammable
21 items were also visible through the front living room.

22 30. Commander PATRICK MAXWELL ordered, condoned, and
23 ratified officers to throw the many gas devices inside the home knowing it would
24 likely start a fire and cause Decedent to be unable to exit his home. In fact,
25 Commander PATRICK MAXWELL has implemented this tactic numerous times
26 before and similarly caused the death of others.

27 31. Commander PATRICK MAXWELL also knew that the "burn
28 safe" device used to deploy the chemical agents was an "after market" product that

1 was dangerous and caused fires. Despite this knowledge, MAXWELL allowed
2 this device to be used even though he knew the company that manufactured this
3 device was owned and operated by a current member in his SWAT Team (Sgt.
4 Thomas Giandomenico) who was involved in this incident.

5 32. Based on his experience and knowledge of chemical agents,
6 Commander MAXWELL knew that the chemical agent used in this incident that
7 caused this fatal fire had explicit warnings from the manufacturer that it not be
8 used indoors due to the fact that it caused fires, yet he approved of its use anyway.

9 33. The reasoning of the on-scene Defendants for deploying in
10 excess of fourteen (14) canisters of tear gas in the residence was that they had
11 previously employed the gassing in the same manner and it had previously
12 effectively "smoked out" people who had been hiding inside buildings where they
13 deployed this type of firebomb. Thus, based on Defendant COUNTY's practice,
14 and written or unwritten policy, Defendants ordered the incendiary gas canister to
15 be thrown inside the residence, near multiple obvious fire hazards, with no
16 immediate means available to extinguish the bomb or fires it might set inside the
17 residence, while reasonably aware that at least one person, not believed to be
18 armed or threatening, was inside the residence, recalcitrant to law enforcement
19 commands to exit the residence, possibly impaired or under the influence, and
20 likely to die should a fire be set inside the residence.

21 34. In order to throw the gas inside the residence, Defendant
22 Deputies broke the front living room window, and Defendant Deputies threw the
23 hot gas through the broken window into the front living room, on or near the two
24 obviously flammable sofas. Any visual observation into the window of the front
25 living room would have disclosed obvious fire hazards noted herein. Although
26 there was no indication Decedent or anyone other than law enforcement was
27 armed, Defendants used their firearms to provide cover for the team that broke the
28 window and put massive amounts of gas inside the residence then placed the hot

1 incendiary device inside.

2 35. The “gas plan,” as devised, condoned, approved, and ratified by
3 Commander PATRICK MAXWELL, was initiated by LASD at 11:00 pm on
4 February 5, 2015. Massive amounts of gas were fired into the residence. Defendant
5 DEPUTY GEISBAUER tossed a ““burn safe”” gas. DEPUTY SALAZAR
6 deployed a tomahawk gas thrown through the southwest bedroom window and the
7 bathroom window. DEPUTY SALAZAR fired other rounds into the attic.
8 DEPUTY MCNAMARA fired three additional rounds into the attic. Defendant
9 DEPUTY RODRIQUEZ deployed a tomahawk through the window of the door on
10 the north side of the residence. During this outrageous and unwarranted gas attack,
11 Defendant SARGENT SEAN BURKE supervised and directed the attack.

12 36. Defendant DEPUTY PRATT, Defendant DEPUTY STADE
13 and Defendant DEPUTY WHEELER assisted the other named defendants in the
14 tactical operations and carrying out the gas attack of the residence, along with
15 Does 1-10.

16 37. Then, the Defendants simply waited. No one forced entry to
17 ensure the device did not set a fire. No one attempted to prevent the hot gas from
18 igniting a fire. No steps were taken in the placement of the hot gas to reduce or
19 eliminate the possibility of a fire being set by the device’s ignition.

20 38. Defendants waited an extended period of time for the Fire
21 Department arrival. The delay wasn’t because the Fire truck was a great distance
22 from the location, but because Defendants had blocked access to the Decedent and
23 the property. By the time the Fire Department had the fire controlled, about an
24 hour later, Decedent was dead from smoke inhalation and other causes related to
25 the actions of the Defendants. He had been hiding in a crawlspace above the
26 kitchen, according to the location of his body. No weapon was found near the
27 Decedent’s body.

28 //

1 39. Plaintiffs allege Defendants grossly violated the training and
 2 standards involved in making reasonable searches and seizures of subjects, and
 3 especially in using the tomahawk “burn safe” in the manner described herein,
 4 which also violated standard training, established legal precedent, and
 5 manufacturer guidelines concerning the use of the massive gassing. These
 6 violations by Defendants caused Decedent’s death.

7 40. Plaintiffs further allege that Decedent’s death was the
 8 proximate result of Defendant COUNTY’s failure to reasonably train their peace
 9 officers in the proper and reasonable use of force, effecting entries into residences,
 10 the proper and reasonable deployment of flash bang grenades, the proper and
 11 reasonable apprehension of barricaded subjects, and in responding to mentally
 12 impaired or intoxicated subjects. Plaintiffs further allege that these substantial
 13 failures reflect Defendant COUNTY’s policies implicitly ratifying and/or
 14 authorizing the use of excessive force, unreasonable seizures, unreasonable uses of
 15 the flash bang grenade, and the failure to render medical care or provide for
 16 medical care to subjects placed in emergency medical jeopardy by its peace officer
 17 employees.

18 41. The killing of Decedent, described herein was brutal, malicious,
 19 and done without just provocation or cause, proximately causing Decedents’
 20 injuries and resulting damages.

21 **DAMAGES**

22 42. Plaintiffs were physically, mentally, emotionally and
 23 financially injured and damaged as a proximate result of Decedent’s wrongful
 24 death, including, but not limited to, the loss of Decedent’s familial relationships,
 25 comfort, protection, companionship, love, affection, solace, and moral support. In
 26 addition to these damages, Plaintiffs are entitled to recover for the reasonable value
 27 of funeral and burial expenses, pursuant to C.C.P. §§377.60 and 377.61.

28 //

1 43. Plaintiffs are entitled to recover wrongful death damages
2 pursuant to C.C.P. §§377.60 and 377.61 and Probate Code§6402(b).

3 44. Pursuant to C.C.P. §§ 377.30, 377.32, and 377.34, Plaintiffs are
4 further entitled to recover for damages incurred by Decedent before he died as the
5 result of being assaulted and battered, for deprivation without due process of
6 Decedent's right to life, and to any penalties or punitive damages to which
7 Decedent would have been entitled to recover, had he lived. Furthermore, under
8 42 U.S.C.§1983, Plaintiffs are entitled to recover damages incurred by Decedent
9 consisting of pain, suffering, and disfigurement prior to Decedent's death.

10 45. As a further direct and proximate result of the negligence,
11 unreasonable seizure and deliberate indifference of Defendants, and each of them,
12 Plaintiffs have been deprived of Decedent's financial support.

13 46. The conduct of the Defendant Deputies was malicious, wanton,
14 and oppressive. Minor Plaintiffs are Decedent's successor in interest, are therefore
15 entitled to an award of punitive damages against said individual defendants.
16 Plaintiffs found it necessary to engage the services of private counsel to vindicate
17 their rights, and the rights of Decedent, under the law. Plaintiffs are therefore
18 entitled to recover all attorneys' fees incurred in relation to this action pursuant to
19 Title 42 United States Code §1988.

20
21 **FIRST CAUSE OF ACTION**
22 **(Wrongful Death 42 U.S.C. §1983**
23 **Violation of Decedent's Fourth Amendment Rights Against**
24 **Unreasonable Search and Seizure)**

25 47. Plaintiffs hereby re-allege and incorporate by reference herein
26 paragraphs 1 through 46 of this Complaint.

27 48. Defendants acted under color of law by killing Decedent
28 without lawful justification and subjecting Decedent to excessive force thereby

1 depriving Plaintiffs and the Decedent of certain constitutionally protected rights,
2 including, but not limited to:

3 a. The right to be free from unreasonable searches and
4 seizures, as guaranteed by the Fourth and Fourteenth Amendments to the United
5 States Constitution.

6 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

7
8 **SECOND CAUSE OF ACTION**

9 **(Violations of Plaintiffs' Civil**

10 **Rights to Familial Relationship - 42 U.S.C. §1983)**

11 49 Plaintiffs hereby re-allege and incorporate by reference herein
12 paragraphs 1 through 48 of this Complaint.

13 50. Defendants, acting under color of law, and without due process
14 of law deprived Plaintiffs of their right to a familial relationship by seizing
15 Decedent by use of unreasonable, unjustified, and/or deadly force and violence,
16 causing injuries which resulted in Decedent's death, all without provocation and
17 did attempt to conceal their extraordinary use of force and hide the true cause of
18 Decedent's demise to deprive Plaintiffs of their right to seek redress, all in violation
19 of rights, privileges, and immunities secured by the Fourth and Fourteenth
20 Amendments to the United States Constitution.

21 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

22 **THIRD CAUSE OF ACTION**

23 **(*Monell* - 42 U.S.C. §1983)**

24 51. Plaintiff hereby re-alleges and incorporates by reference herein
25 paragraphs 1 through 50 of this Complaint.

26 52. Plaintiffs are informed and believe and thereon allege that high-
27 ranking COUNTY OF LOS ANGELES officials, including high ranking police
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1 supervisors such as Defendant MCDONNELL, EWELL, Does 1 through 10,
2 and/or each of them, knew and/or reasonably should have known about repeated
3 acts of misconduct by Defendants, and DOES 1-10, and/or each of them.

4 53. Despite having such notice, Plaintiffs are informed and believe
5 and thereon allege that Defendants MCDONNELL, EWELL, Does 1 through 10
6 and/or each of them, approved, ratified, condoned, encouraged, sought to cover up,
7 and/or tacitly authorized the continuing pattern and practice of misconduct and/or
8 civil rights violations by said defendants. The LASD had a history of racial animus
9 and had been cited by the United States Department of Justice for the pattern of
10 aggressive, excessive force on African American and Section 8 Housing to African
11 Americans.

12 54. Specifically, Commander PATRICK MAXWELL had a history
13 and reputation at the Los Angeles County Sheriff's Department for using excessive
14 force against suspects. Commander PATRICK MAXWELL has been involved in
15 countless incidents of excessive force, including multiple incidents similar to here
16 where Deputies caused a barricaded suspect to be burned alive due to the use of
17 gas and other devices, such as road flares. Despite PATRICK MAXWELL's
18 repeated use of excessive force, PATRICK MAXWELL was promoted and made
19 Commander at the Los Angeles County Sheriff's Department and given the duty to
20 formulate and implement SWAT plans and tactics.

21 55. Plaintiffs are further informed and believe and thereon allege
22 that as a result of the deliberate indifference, reckless and/or conscious disregard of
23 the misconduct by, Commander PATRICK MAXWELL and DOES 1-10 and/or
24 each of them, Defendant, Commander PATRICK MAXWELL, DOES 1-10,
25 and/or each of them, ratified and encouraged these officers to continue their course
26 of misconduct and caused these officers' lack of training, resulting in the violation
27 of the Plaintiffs' and Decedent's rights as alleged herein.

28 //

1 56. Plaintiffs further allege Defendants, DOES 1 - 10, and/or each
2 of them, were notice of Constitutional defects in their training of COUNTY OF
3 LOS ANGELES peace officers, including, but not limited to, in the deployment,
4 placement, use, and/or ignition of the flash bang grenade, responding to mentally
5 impaired or intoxicated subjects, responding to barricaded subjects, and in
6 providing for medical care for subjects placed in harm or jeopardy by the actions
7 COUNTY OF LOS ANGELES peace officers.

8 57. The aforementioned acts and/or omissions and/or deliberate
9 indifference by high ranking COUNTY OF LOS ANGELES officials, including
10 high ranking COUNTY OF ANGELES Sheriff's Department supervisors,
11 Defendants SHERIFF JIM MCDONNELL, DOES 1 - 10, and each of them
12 resulted in the deprivation of Plaintiffs' and Decedents constitutional rights
13 including, but not limited to, the following:

14 a. The right to be free from unreasonable searches and
15 seizures, as guaranteed by the Fourth and Fourteenth Amendments to the United
16 States Constitution;

17 b. The right to a familial relationship, as guaranteed by the
18 Fourteenth Amendment to the United States Constitution.

19 58. Said rights are substantive guarantees under the Fourth and/or
20 Fourteenth Amendments to the United States Constitution.

21 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

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FOURTH CAUSE OF ACTION

(Survival Action: Violation of Decedents Civil Rights

42 U.S.C. §1983)

(ALISSA VARNEDOE, “J.V.” and “S.V.”,

As Decedent’s Successor-In-Interest)

59. Plaintiffs hereby reallege and incorporate by reference herein paragraphs 1 through 58 of this Complaint.

60. The foregoing claim for relief arose in Decedent’s favor, and Decedent would have been the Plaintiff with respect to this claim if he had lived.

61. Defendants acted under color of law in killing Decedent without lawful justification and subjecting Decedent to excessive force and unreasonable search and seizure, thereby depriving Plaintiffs and the Decedent of certain constitutionally protected rights, including, but not limited to:

a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution;

b. The right to a familial relationship, as guaranteed by the Fourteenth Amendment to the United States Constitution.

62. Said rights are substantive guarantees under the Fourth and/or Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

PRAYER

WHEREFORE, Plaintiffs pray for relief, as follows:

1. For general damages in a sum of \$50,000,000.00;
2. For special damages in a sum according to proof;
3. For punitive damages in a sum according to proof;

4. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;
5. For statutory civil penalties;
6. For cost of suit herein incurred; and
7. For such other and further relief as the Court deems just and proper.

Dated: November 9, 2017

By: /s/ James S. Terrell
James S. Terrell, Esq.
Attorney for Plaintiffs

Dated: November 9, 2017

By: /s/ Sharon J. Brunner
Sharon J. Brunner, Esq.
Attorney for Plaintiffs

JURY TRIAL DEMANDED

Plaintiff demands a jury trial.

Dated: November 9, 2017

By: /s/ James S. Terrell
James S. Terrell, Esq.
Attorney for Plaintiffs

Dated: November 9, 2017

By: /s/ Sharon J. Brunner
Sharon J. Brunner, Esq.
Attorney for Plaintiffs